

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HRATCH YEREMIAN,

Plaintiff,

Case No. 2:22-cv-12978

v.

Hon. Gershwin A. Drain
Mag. Judge David R. Grand

MGM GRAND CASINO,

Defendant.

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JOINT FINAL PRETRIAL ORDER

Plaintiff, Hratch Yeremian, by and through his attorneys, Hurwitz Law PLLC and Marko Law, PLLC, and Defendant, MGM Grand Casino, by and through its attorneys, Jackson Lewis P.C., hereby jointly submit the following Amended Joint Final Pretrial Order (“Amended JFPTO”). Counsel for the parties met via virtual conference on December 23, 2024, to discuss the contents of the Amended Joint Final Pretrial Order.

(1) JURISDICTION

The jurisdiction of this court is invoked pursuant to Title VII of the Civil Rights Act of 1964 [42 U.S.C. §2000e], and 42 U.S.C. §1331. Neither party contests jurisdiction.

(2) PLAINTIFF’S CLAIMS

Mr. Yeremian worked for MGM casino for 22 years and consistently earned glowing reviews from his peers. In the face of the COVID-19 pandemic, Defendant designated Plaintiff as an essential employee. On August 16, 2021, Defendant announced its COVID-19 vaccine policy for all salaried employees and new hires. Defendant’s COVID-19 vaccine mandate did not apply to union employees hired before the implementation of Defendant’s policy and union employees constitute roughly 80% of Defendant’s workforce. In accordance with Mr. Yeremian’s sincerely held religious beliefs, he submitted a religious accommodation request to

be exempt from Defendant's COVID-19 vaccine mandate. Guided by prayer, Plaintiff Yermian explained to Defendant that he held a "sincere religious belief" and that he opposed "as a matter of religious conviction to be inoculated with the vaccine against [his] will." Defendant ultimately denied Mr. Yermian's religious accommodation request and terminated him on the basis that accommodating Mr. Yermian would have burdened Defendant with an undue hardship. Mr. Yermian alleges violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (Title VII). Specifically, Mr. Yermian is proceeding to trial on a failure to accommodate claim.

(3) DEFENDANT'S DEFENSES¹

Defendant MGM Grand Detroit ("Defendant") employed Plaintiff Hratch Yermian ("Plaintiff") as its Warehouse Manager until October 16, 2021, when his employment was terminated for failing to comply with Defendant's COVID-19 vaccine policy. His employment was terminated after Defendant, after conducting an individualized assessment of Plaintiff's job duties, requested accommodation, and several economic and non-economic costs, reasonably determined that allowing Plaintiff to remain unvaccinated during the pandemic would impose an undue hardship on Defendant. In doing so, it relied on EEOC and other legal guidance in

¹ This brief statement of the case is not intended to be a substitute for Defendant's Statement of Defenses.

effect at the time. *See* 42 USC 2000e-12(b). Plaintiff's sole remaining claim for trial is Plaintiff's religious failure to accommodate brought under Title VII of the Civil Rights Act.

(4) STIPULATION OF FACTS

1. Plaintiff was employed by Defendant.
2. On August 16, 2021, Defendant announced its COVID-19 vaccine policy for all salaried employees and new hires.
3. Plaintiff held the position of Warehouse Manager, where he was responsible for managing Defendant's Warehouse along with accounts payable, inventory control, and purchasing.
4. Mr. Yeremian submitted his initial religious accommodation request on September 16, 2021. Defendant then requested additional information. In response, Mr. Yeremian submitted his "COVID-19 Religious Accommodation Request Form" adding additional information.
5. On September 24, 2021, Defendant denied Plaintiff's religious accommodation request.
6. Defendant denied Mr. Yeremian's religious accommodation request based on undue hardship.
7. Plaintiff's employment was separated effective October 16, 2021.
8. Plaintiff has been continuously employed by Greektown Casino since March 2022.
9. As a new hire, Plaintiff's yearly salary at Greektown Casino was \$89,999.94.
10. Effective October 10, 2022, Plaintiff received a salary adjustment such that his yearly salary was \$93,000.00.

11. Effective March 27, 2023, Plaintiff received a merit increase such that his yearly salary was \$95,790.03.
12. Effective March 25, 2024, Plaintiff received a merit increase such that his yearly salary was \$98,663.76.
13. Effective October 7, 2024, Plaintiff received a promotion such that his yearly salary was \$120,000.00.
14. In addition to his base salary, Plaintiff is also eligible to participate in Greektown's Incentive Bonus plan, which as of March 10, 2022, was targeted at 10% of Plaintiff's annual salary.
15. As part of his total compensation at Greektown Casino, Plaintiff is also eligible for a 401(k) plan, 160 hours per year of paid flex time off, and health benefits.
16. Beginning in March 2022, when Plaintiff began his employment at Greektown Casino, he has been eligible for substantially the same or similar benefits as he received from MGM Grand.

(5) ISSUES OF FACT TO BE LITIGATED.

(A) PLAINTIFF.

1. Whether accommodating Plaintiff would have caused Defendant undue hardship.
2. The amount of economic damages.
3. The amount of non-economic damages.
4. The amount of punitive damages.

(B) DEFENDANT.

1. Whether Plaintiff has a sincerely held religious belief that conflicts with Defendant's vaccine policy.

2. Whether Plaintiff informed Defendant of the religious belief.
3. Whether granting Plaintiff's request to remain unvaccinated posed an undue hardship on Defendant.
4. Whether Defendant relied in good faith on the guidance from the EEOC and Supreme Court at the time.
5. Whether Plaintiff can establish any damages attributable to Defendant as opposed to his own actions.
6. Whether Plaintiff's claim for economic damages is barred after March of 2022 because Plaintiff voluntarily resigned from subsequent, comparable employment in or around March of 2022, and then started working at Greektown Casino where he earned more than he did with Defendant.
7. Whether Plaintiff can establish any emotional distress or other damages.

(6) ISSUES OF LAW TO BE LITIGATED.

(A) PLAINTIFF.

1. Whether Defendant can demonstrate that accommodating Plaintiff would have burdened Defendant with an undue hardship which is shown only "when a burden is ***substantial in the overall context of an employer's business.***" *Groff v. Dejoy*, 600 U.S. at 468 ("courts should resolve whether a hardship would be ***substantial*** in the context of an employer's business in the commonsense manner that it would use in applying any such test."). Defendant will attempt to demonstrate undue hardship even though its COVID-19 vaccine mandate did not apply to 80% of its workforce and it accommodated at least one other individual from its COVID-19 vaccine mandate.

(B) DEFENDANT.

1. Whether Plaintiff can prove by a preponderance of the evidence that he had a sincere religious belief that conflicted with Defendant's vaccine policy.
2. Whether Plaintiff can prove by a preponderance of the evidence that he told Defendant about his religious belief.
3. Whether accommodating Plaintiff would have posed an undue hardship on Defendant.
4. Whether MGM Grand relied upon EEOC guidance or other legal authority in making its determination about undue hardship. 42 USC 2000e-12(b)
5. If liability is found, whether Plaintiff's economic damages are barred and/or cut off after March of 2022, when Plaintiff voluntarily resigned from subsequent, comparable employment.
6. If liability is found, whether Plaintiff's economic damages and front pay/future damages are barred and /or cut off after March of 2022, when Plaintiff accepted a comparable position at Greentown Casino, where he earns more than he did with Defendant.
7. If liability is found, whether punitive damages should be barred because Defendant's decisions which relied upon the facts and circumstances at the time as well as guidance from the U.S. government and medical experts were not malicious or reckless.
8. If liability is found, whether punitive and compensatory damages are capped at \$300,000 under 42 U.S.C. § 1981a(b)(3).

(7) EVIDENCE PROBLEMS LIKELY TO ARISE AT TRIAL.

Both sides have filed motions in limine which are currently pending before the Court.

(8) WITNESSES.

(A) PLAINTIFF.

WILL CALL

1. Harry Yeremian – Lay witness; in-person testimony; estimated direct examination 2 hours.
2. Rozell Blanks – Lay Witness; in-person testimony; estimated direct examination 2 hours.
3. Dana Howell – Lay Witness; in-person testimony; estimated direct examination 2 hours.

MAY CALL

1. Bryant Brown – Lay Witness; in-person testimony; estimated direct examination 2 hours. [Defendant objects to this witness to the extent Plaintiff seeks to elicit any testimony pertaining to the reasons set forth in Defendant's motions in limine regarding Brown.]
2. Alik Yeremian – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness for the reasons set forth in Defendant's motions in limine.]
3. Sarkis Steve Karjian – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness for the reasons set forth in Defendant's motions in limine.]
4. Rosy Yeremian – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness for the reasons set forth in Defendant's motions in limine.]
5. Cindi Testa – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness for the reasons set forth in Defendant's motions in limine.]

6. Fred Testa – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness for the reasons set forth in Defendant’s motions in limine.]
7. Kelly Kichline – Lay Witness; in-person testimony; estimated direct examination 1.5 hours.
8. Craig Mills – Lay Witness; in-person testimony; estimated direct examination 1.5 hours.
9. Jennifer Berthiaume – Lay Witness; in-person testimony; estimated direct examination 1 hour.
10. Mira Kattan – Lay Witness; in-person testimony; estimated direct examination 1 hour.
11. David Tsai – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness pursuant to the Apex Doctrine, as unduly burdensome and disproportionate to the needs of the case pursuant to Fed. R. Civ. P. 26(b)(1) and (c)(1), and as lacking personal knowledge subject to Fed. R. Evid. 602).]
12. Bill Hornbuckle – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness pursuant to the Apex Doctrine, as unduly burdensome and disproportionate to the needs of the case pursuant to Fed. R. Civ. P. 26(b)(1) and (c)(1), and as lacking personal knowledge subject to Fed. R. Evid. 602).]
13. John McManus – Lay Witness; in-person testimony; estimated direct examination 1 hour. [Defendant objects to this witness pursuant to the Apex Doctrine, as unduly burdensome and disproportionate to the needs of the case pursuant to Fed. R. Civ. P. 26(b)(1) and (c)(1), as lacking personal knowledge subject to Fed. R. Evid. 602), and on the grounds that his testimony is protected by attorney-client privilege.]

14. Rebuttal and impeachment witnesses as necessary. [Defendant may object to these witnesses once named for the reasons set forth in Defendant's Motion in Limine or based on the Federal Rules of Evidence]

(B) DEFENDANT

WILL CALL

1. Plaintiff Hratch Yeremian, c/o counsel for Plaintiff. Estimated examination 2-4 hours.
2. Dana Howell, c/o counsel for Defendant. Estimated examination 2-4 hours.
3. Rozell Blanks, c/o counsel for Defendant. Estimated examination 1-3 hours.
4. Craig Mills, c/o counsel for Defendant. Estimated examination 1-3 hours.

MAY CALL

1. Bryant Brown, c/o counsel for Plaintiff. Estimated examination 2-4 hours.
2. Representatives and/or Custodians of Records from the Equal Employment Opportunity Commission ("EEOC"), 477 Michigan Ave., Room 865, Detroit, MI 48226. Estimated testimony 1 hour. [Plaintiff may object to these witnesses once named for the reasons set forth in Plaintiff's Omnibus Motion in Limine].
3. Representatives of and/or Custodians of Records for Plaintiff's current, past, and prospective employers or contractor agencies, including but not limited to Greektown Casino, LLC, 595 Lafayette Street, Detroit, MI 48226. Estimated testimony 1 hour. [Plaintiff may object to these witnesses once named for the

reasons set forth in Plaintiff's Omnibus Motion in Limine].

4. Representatives of and/or Custodians of Records for Plaintiff's current and past treating physicians and medical providers, including but not limited to: Craig Gill, D.C., R.E. Tent, and Diverse Health Services, PLLC, 24230 Karim Blvd., Suite 130, Novi, MI 48375. Estimated testimony 1-3 hours. [Plaintiff may object to these witnesses once named for the reasons set forth in Plaintiff's Omnibus Motion in Limine].
5. All persons, not objected to by Defendant, identified in all pleadings, interrogatory answers, and depositions. [Plaintiff may object to these witnesses once named for the reasons set forth in Plaintiff's Omnibus Motion in Limine].
6. All persons, not objected to by Defendant, identified in documents produced or subpoenaed during discovery. [Plaintiff may object to these witnesses once named for the reasons set forth in Plaintiff's Omnibus Motion in Limine].
7. All persons listed by Plaintiff and not objected to by Defendant, whether called or not. [Plaintiff may object to these witnesses once named for the reasons set forth in Plaintiff's Omnibus Motion in Limine].
8. Any witnesses needed for impeachment or rebuttal, including lay and expert witnesses, as necessary.

(9) EXHIBITS.

(A) PLAINTIFF.

Exhibit No.	Description	Bates Label	Date Produced	Objected to?	Received
1	Notes from Call Between Kelly Kichline and Craig Mills	MGM (Brown – Yeremian) 000124	December 22, 2023	FRE 1004, FRE 802	

2	Letter from Bill Hornbuckle Regarding COVID-19 Vaccine Mandate	MGM (Brown – Yeremian) 000131	December 22, 2023		
3	MGM Mandatory COVID-19 Vaccination Policy for Salaried Employees and New Hires	MGM (Brown – Yeremian) 000133 – MGM (Brown – Yeremian) 000135	December 22, 2023		
4	Yeremian Request for Religious Workplace Accommodation	MGM (Brown – Yeremian) 000137 – MGM (Brown – Yeremian) 000143	December 22, 2023		
5	Request for Additional Information	MGM (Brown – Yeremian) 000145 – MGM (Brown- Yeremian) 000148	December 22, 2023		
6	Yeremian Response to Request for Additional Information	MGM (Brown – Yeremian) 000150 – MGM (Brown – Yeremian) 000154)	December 22, 2023		

7	Religious Accommodation Request Denial Letter	MGM (Brown – Yeremian) 000156 – MGM (Brown – Yeremian) 000158)	December 22, 2023		
8	Email Chain Requesting Reconsideration and Denial of Request for Reconsideration	MGM (Brown – Yeremian) 000160 – MGM (Brown – Yeremian) 000161	December 22, 2023		
9	Email Chain Expressing Concern about Accommodation Process and Response	MGM (Brown – Yeremian) 000163 – MGM (Brown – Yeremian) 000164	December 22, 2023		

10	Email Chain Again Requesting Concern about Accommodation Process and Response	MGM (Brown – Yeremian) 000166 – MGM (Brown – Yeremian) 000167	December 22, 2023		
11	Yeremian Performance Reviews/Positive Comments	MGM (Brown – Yeremian) 000168 – MGM (Brown – Yeremian) 000182)	December 22, 2023	Objection based on relevancy and hearsay under FRE 402, 403, 802.	
12	Email from Dana Howell Informing MGM of Denial	MGM (Brown – Yeremian) 000300	December 22, 2023		
13	Yeremian Vaccination Status	MGM (Brown – Yeremian) 000313 - MGM (Brown – Yeremian) 000315	June 21, 2024	Objection to the description of this exhibit as inaccurate.	
14	MGM Conduct Policy	MGM (Brown – Yeremian) 000316 - MGM (Brown – Yeremian) 000321	June 21, 2024		

15	Correspondence Between Dana Howell and Kelly Kichline	MGM (Brown – Yeremian) 000341 - MGM (Brown – Yeremian) 000347	June 21, 2024	FRE 402, 403, 602, 802.	
16	Correspondence between Craig Mills and Dana Howell	MGM (Brown – Yeremian) 000348 - MGM (Brown – Yeremian) 000348	June 21, 2024		
17	Correspondence Between Yeremian and Dana Howell	MGM (Brown – Yeremian) 000349 – 000351	June 21, 2024		
18	Correspondence Between Dana Howell and Rozell Blanks	MGM (Brown – Yeremian) 000354 - MGM (Brown – Yeremian) 000355	June 21, 2024		
19	Correspondence Between Yeremian, Dana Howell, and Rozell Blanks	MGM (Brown – Yeremian) 000356 - MGM (Brown – Yeremian) 000357	June 21, 2024		

20	Correspondence Between Dana Howell and Rozell Blanks	MGM (Brown – Yeremian) 000360	June 21, 2024		
21	Email Correspondence Between Yeremian, Stephanie Streuber and Dana Howell	MGM (Brown – Yeremian) 000361 - MGM (Brown – Yeremian) 000363	June 21, 2024		
22	Email Correspondence Regarding Non-Compliance with COVID-19 Vaccine Mandate	MGM (Brown – Yeremian) 000366- MGM (Brown – Yeremian) 000374	June 21, 2024		
23	Defendant's Privilege Log		June 21, 2024	FRE 402, FRE 403	
24	Vaccination Verification Schedule	MGM (Brown – Yeremian) 000375	July 15, 2024		
25	Vaccination Guide	MGM (Brown – Yeremian) 000376 - MGM (Brown – Yeremian) 000379	July 15, 2024		

26	COVID Vaccine Deadline Reminder	MGM (Brown – Yeremian) 000381 - MGM (Brown – Yeremian) 000383	July 15, 2024		
27	Updated Mandatory Vaccination Policy and Leader Talking Points	MGM (Brown – Yeremian) 000384	July 15, 2024		
28	Mandatory COVID-19 Vaccination Policy Updated on September 10, 2021	MGM (Brown – Yeremian) 000385 - MGM (Brown – Yeremian) 000388	July 15, 2024		
29	Documents Reflecting Granted Accommodation and Accommodation Request	MGM (Brown – Yeremian) 000397-000401	July 25, 2024	FRE 402, FRE 403. <i>See also</i> Defendant’s motion in limine.	
30	Yeremian Personal Note Regarding Call with Mira Kattan	HY 001	November 20, 2023		
31	Letter to Yeremian Regarding Vaccination Status	HY 002 – HY 0003	November 20, 2023		
32	Yeremian Essential Employee Designation	HY 014	November 20, 2023		

33	Yeremian Thank You Letter from David Tsai	HY 015	November 20, 2023		
34	Letter from David Tsai regarding Governor Whitmer Order.	HY 016	November 20, 2023		
35	Yeremian Job Search Documents	HY 046 – HY 061	November 20, 2023	<i>See Defendant's motion in limine.</i>	
36	Letter Describing Yeremian's access to premises during Pandemic	HY 064	November 20, 2023		
37	Important Information on COVID-19 Vaccination	HY 069 – HY 071	November 20, 2023		
38	Yeremian Termination Letter	HY 073	November 20, 2023		
39	Yeremian Separation Note	HY 074	November 20, 2023		
40	Yeremian 2021 W-2 and Earnings Summary and 2021 Tax Return	HY0075 – HY0095	April 17, 2024		
41	Yeremian 2022 W-2 and Earnings Summary and Tax Return	HY0096 – HY0121	April 17, 2024		
42	Yeremian 2023 State and Local income Tax Refund Worksheet	HY0122 – HY0125	April 17, 2024		
43	Yeremian 2023 Michigan Schedule 1 Addition and Subtractions	HY0126 – HY0127	April 17, 2024		

44	2023 Michigan Withholding Tax Schedule	HY0128	April 17, 2024		
45	2023 City of Detroit Nonresident Income Tax Return	HY0129-HY0131	April 17, 2024		
46	2023 City of Detroit Withholding Tax Schedule	HY0132 – HY0133	April 17, 2024		
47	Picture of Alik Yeremian	HY0134	July 17, 2024	FRE 402, FRE 403. <i>See also</i> Defendant's motion in limine.	
48	EEOC Charge	MGM (Brown – Yeremian) 000115 – MGM (Brown – Yeremian) 000116)	December 22, 2023	FRE 402, FRE 403, FRE 802	
49	EEOC Right to Sue Letter		Produced by EEOC on September 14, 2022	FRE 402, FRE 403, FRE 802	
50	Guidance from the U.S. Equal Employment Opportunity Commission (EEOC)	Public Record			
51	Yeremian Flagstar Bank Statement 02/06/2022	HY0144-0147	November 25, 2024	FRE 402, 403. <i>See also</i> motion in limine.	

52	Yeremian Citizens Account Statement 02/23/2022 – 03/31/2011	HY0148 – HY0151	November 25, 2024	FRE 402, 403. See motion in limine.	
53	Yeremian Citizens Bank Statement 10/23/2021 – 11/22/2021	HY0157 – HY0162	November 25, 2024	FRE 402, 403. See motion in limine.	
54	Yeremian Citizens Bank Statement 10/23/2021 – 11/22/2021	HY0157 – HY0162	November 25, 2024	FRE 402, 403. See motion in limine.	
55	Yeremian Citizens Bank Statement 04/22/2022 – 05/20/2022	HY0163 – HY 0166	November 25, 2024	FRE 402, 403. See motion in limine.	
56	Yeremian 2024 Pay Details as of November 17, 2024	HY0167	November 25, 2024		
57	Photos	HY0168 – HY0175	November 25, 2024	FRE 402, 403. See motion in limine.	
58	MGM Resorts International 2023 Annual Report	Public Record		FRE 402, FRE 403, FRE 802, FRE 901, lack of foundation.	
59	The Detroit News Article “Detroit Casinos bring in \$110.4 Million in Revenue for September	Public Record		FRE 402, FRE 403, FRE 802, FRE 901, lack of foundation.	

60	United States Securities and Exchange Commission Form 10-K: Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the transition period from Commission File NO. 001-10362: MGM Resorts International	Public Record		FRE 402, FRE 403, FRE 802, FRE 901, lack of foundation.	
61	MGM Resorts International Press Release Details: MGM Resorts International Reports Record Fourth Quarter and Full Year 2023 Results (February 13, 2024)	Public Record		FRE 402, FRE 403, FRE 802, FRE 901, lack of foundation.	
62	Defendant's Second Amended Responses to Plaintiffs' First Set of Requests for Admissions to Defendant		July 25, 2024	FRE 1004, FRE 802 unless used solely for impeachment under FRE 607.	

63	Defendant's Second Supplemental Responses to Plaintiffs' First Requests for Production of Documents to Defendant		July 25, 2024	FRE 1004, FRE 802 unless used solely for impeachment under FRE 607.	
64	Defendant's Supplemental Answers to Plaintiffs' First Set of Interrogatories to Defendant		June 21, 2024	FRE 1004, FRE 802 unless used solely for impeachment under FRE 607.	

(B) DEFENDANT.

Defendant expects that it will or may offer the following documents² at any trial of this matter:

Will Offer

Exhibit No.	Description	Bates Label	Objected to?	Received
A	8/16/21 Vaccine Policy Announcement	MGM (Brown-Yeremian) 000131		
B	Mandatory COVID-19 Vaccination Policy for Salaried Employees and New Hires	MGM (Brown-Yeremian) 000133-135		

² Where an exhibit has been listed by both Plaintiff and Defendant, Defendant will rely on the first admitted exhibit and will reintroduce the exhibit, unless necessary for a proper understanding of the of the exhibit.

Exhibit No.	Description	Bates Label	Objected to?	Received
C	Letter to Plaintiff	HY 002-003		
D	9/16/21 Request for Religious Workplace Accommodation	MGM (Brown-Yeremian) 000137-143		
E	9/23/21 COVID-19 Religious Accommodation Request Form	MGM (Brown-Yeremian) 000150-154		
F	9/24/21 Letter to Plaintiff re: Religious Accommodation Request for COVID-19 Vaccine	MGM (Brown-Yeremian) 000156-158		
G	10/18/21 Letter to Plaintiff	HY 073-74		
H	2020-EO-09	ECF No. 34-6	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
I	2020-EO-160	ECF No. 34-8	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	

Exhibit No.	Description	Bates Label	Objected to?	Received
J	2020-EO-161	ECF No. 34-9	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
K	CDC COVID-19 vaccination guidance	Public Record	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
L	OSHA ETS summary	COVID-19 Vaccination and Testing ETS (osha.gov)	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
M	EEOC Regulations on undue hardship	29 C.F.R. § 1605.2(e)	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
N	EEOC Guidance on undue hardship	Public Record, available at: https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_12929403436951610749878556	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	

Exhibit No.	Description	Bates Label	Objected to?	Received
O	President Biden Statement	Public Record, available at: https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
P	Michigan Gaming Control Board Minimum Guidelines for Detroit Commercial Casinos to Reopen	Public Record, available at: Michigan Gaming Control Board approves minimum reopening guidelines for Detroit casinos	Yes, <i>see</i> FRE 402, FRE 403, FRE 801, FRE 802, FRE 901. <i>See also</i> ECF No. 54.	
Q	Summary, COVID-19 Vaccination and Testing ETS issued by OSHA	COVID-19 Vaccination and Testing ETS (osha.gov)		
R	EEOC: “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws”	Public Record, available at: https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws		

Exhibit No.	Description	Bates Label	Objected to?	Received
S	FDA Biologics License Application Approval of Pfizer Vaccine	Public Record, available at: https://www.fda.gov/media/151710/download		
T	FDA Emergency Use Authorization Approval of Moderna Vaccine	Public Record, available at: https://nihb.org/covid-19/wp-content/uploads/2020/12/Moderna-COVID-19-Vaccine-EUA-Letter-of-Authorization.pdf		
U	Medical Letter, “FDA Authorizes Johnson & Johnson COVID-19 Vaccine, March 22, 2021)	Public Record, available at: https://secure.medicalletter.org/TML-article-1620a		
V	Michigan Department of Health and Human Services COVID-19 Vaccination Interim Prioritization Guidance, updated February 15, 2021	Public Record, available at: https://www.michigan.gov/-/media/Project/Websites/coronavirus/Folder11/MI_COVID-19_Vaccination_Prioritization_Guidance.pdf?rev=452417ba6fa74ee49d0adba3604ba0e3		

Exhibit No.	Description	Bates Label	Objected to?	Received
W	CDC Guidance, “Interim Public Health recommendations for Fully Vaccinated People”, updated April 29, 2021	Public Record, available at: https://stacks.cdc.gov/view/cdc/105629		
X	Plaintiff’s 2021 W-2 from Defendant	HY 0075		
Y	Plaintiff’s 2021 1040 U.S. Individual Income Tax Return	HY 0076-0095		
Z	Plaintiff’s 2022 W-2 from Greektown Casino L.L.C.	HY 0096		
AA	Plaintiff’s 2022 U.S. Individual Income Tax Return	HY 0097-104		
BB	Plaintiff’s 2022 Michigan Individual Income Tax Return	HY 0104-0111		
CC	Plaintiff’s 2023 W-2 from Greektown Casino, LLC	HY 0112		
DD	Plaintiff’s 2023 U.S. Individual Income Tax Return	HY 0113-0122		
EE	Plaintiff’s 2023 Michigan Individual Income Tax Return	HY 0123-0133		

Exhibit No.	Description	Bates Label	Objected to?	Received
FF	Plaintiff's 2024 pay records from Greektown Casino, LLC	Forthcoming from Plaintiff and trial subpoena.		
GG	Greektown Casino, LLC subpoena response dated February 29, 2024	MGM (Brown-Yeremian)000450-000510		
HH	Greektown Casino, LLC response to trial subpoena	Forthcoming		
II	Plaintiff's Pay Records from Defendant	MGM (Brown-Yeremian)000511-000590		

May Offer

Exhibit No.	Description	Bates Label	Objected to?	Received
JJ	Plaintiff's November 20, 2023 Responses to Defendant's First Set of Discovery Requests			
KK	Plaintiff's July 17, 2024 Supplemental Interrogatory Responses			
LL	3/24/20 Letter to Plaintiff re: Essential Employee Designation	HY 014		

Exhibit No.	Description	Bates Label	Objected to?	Received
MM	11/17/20 Letter to MGM Grand Detroit Team Members from David Tsai	HY 016		
NN	Important Information on COVID-19 Vaccination	HY 069-071		
OO	Plaintiff's 2021 W-2 from Defendant	HY 0075		
PP	Diverse Health Services subpoena response dated 1/22/24	MGM (Brown-Yeremian)000402-000440		
QQ	Diverse Health Services subpoena response dated 7/29/24	MGM (Brown-Yeremian)000441-000444		
RR	K. Kichline notes from 9/20/21 phone call with C. Mills	MGM (Brown-Yeremian) 000124		
SS	9/25/21 email from D. Howell to Plaintiff titled "RE: Religious Accommodation Decision (Hratch Yeremian)"	MGM (Brown-Yeremian) 000160-161		

Exhibit No.	Description	Bates Label	Objected to?	Received
TT	9/27/21 email from D. Howell to Plaintiff titled “Fwd: Religious accommodation exemption (Hratch Yeremian)”	MGM (Brown-Yeremian) 000163-164		
UU	10/12/21 email from D. Howell to Plaintiff titled “FW: Covid 19 vaccine mandate”	MGM (Brown-Yeremian) 000166-167		
VV	9/24/21 email from D. Howell to C. Mills titled “Hratch Yeremian Denial of COVID-19 Vaccine Policy Accommodation Request”	MGM (Brown-Yeremian) 000300		
WW	Rules of Conduct	MGM (Brown-Yeremian) 000316-321		
XX	9/13/21 email from MGM Resorts The SHOWcase to Detroit – Supervisors+ titled “Updated Mandatory Vaccination Policy and Leader Talking Points – AS of 9/10/21” plus attachments	MGM (Brown-Yeremian) 000384-391		

Defendant reserves the right to introduce additional exhibits as necessary for rebuttal and/or impeachment.

(10) DAMAGES.

(A) PLAINTIFF.

1. Damages for loss in compensation and future earnings.
2. Non-economic damages, past and future, including damages for emotional distress, physical distress, mental anguish, physical anguish, loss of reputation, embarrassment, humiliation, and the physical effects associated with Defendant's conduct.
3. Punitive Damages.
4. Pre-judgment Interest.
5. Reasonable Attorney Fees.

(B) DEFENDANT.

Even if Plaintiff can establish liability at trial, Defendant objects to receipt of any economic damages after March of 2022 due to Plaintiff's voluntary resignation from subsequent, comparable employment and securing employment at Greektown Casino where he has made more than he did working for Defendant, which is the subject of a motion in limine filed by Defendant. Defendant further objects to any front pay, non-economic damages, exemplary and punitive damages, because there is no evidence to support any of these categories. Moreover, if Plaintiff can establish liability at trial, any compensatory and punitive damages are capped at \$300,000 under 42 U.S.C. § 1981a(b)(3).

(11) TRIAL.

(A) JURY OR NON-JURY

This is a jury trial.

(B) ESTIMATED LENGTH OF TRIAL.

PLAINTIFF: Plaintiff's proofs are estimated to take 3 days.

DEFENDANT: Defendant's proofs are estimated to take 2 days.

(12) SETTLEMENT.

The parties have conferred and considered the possibility of settlement but have been unable to reach a resolution. The parties initially engaged in mediation with Magistrate Judge Mazjoub, ret., in March 2024. The parties then engaged in a settlement conference with the Honorable Magistrate Judge Grand in July 2024 wherein Plaintiff Brown's case settled, but not Plaintiff Yeremian's. On November 25 and 26, 2024, the parties engaged in additional settlement discussions but were unable to resolve the case.

(13) FILING OF TRIAL BRIEFS, FINDINGS, AND INSTRUCTIONS.

The Parties understand that Voir Dire questions, Joint Jury Instructions, and the Verdict Form are due on December 27, 2024.

Jointly Submitted:

/s/ Noah S. Hurwitz
Noah S. Hurwitz
Attorney for Plaintiff

/s/Allan S. Rubin
Allan S. Rubin (P44420)
Jackson Lewis P.C.
Attorneys for Defendant

This has been adopted as the Final Pretrial Order of this Case by the Court on
January 3, 2025.

/s/ Gershwin A. Drain

Gershwin A. Drain
U.S. District Judge

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